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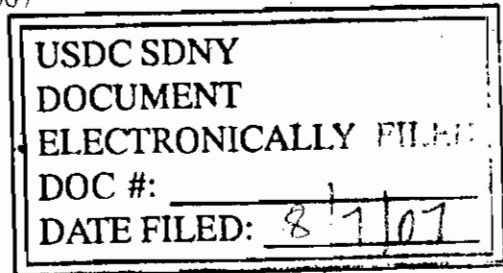
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August 2, 2007

By Fax

Hon. Richard J. Holwell
United States District Court
Southern District of New York
500 Pearl Street
New York, New York



Re: New York State Restaurant Ass'n v. New York City Bd. Of Health
Index # 07 Civ. 5710 (RJH)

Dear Judge Holwell:

This office represents defendants in the above-captioned matter. I write in response to the July 31st letter of Nancy Milburn that requests that plaintiff's time to respond to the defendants' cross-motion for summary judgment on the First Amendment claim be postponed until thirty days after Your Honor rules on the parties' motions for summary judgment on the preemption claim and the plaintiff's motion for a preliminary injunction on the First Amendment claim. In the interest of not delaying a decision on these fully submitted motions, the defendants have decided at this time to withdraw their motion for summary judgment on the First Amendment claim.

SO ORDERED
R. J. Holwell
USDC
8/6/07

Respectfully submitted,

Mark W. Muschenheim (MM 0498)
Assistant Corporation Counsel

cc: Peter L. Zimroth, Esq. (By Fax)
All Amici Counsel (By E-mail)